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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/924,265 | 08/07/2001 | George Z. Hu | AD-DYS-102/880322.20002 | 4890 |
| 20529 | 7590 | 10/11/2006 | | |
| NATH & ASSOCIATES 112 South West Street Alexandria, VA 22314 | | | | |
| EXAMINER HOEKSTRA, JEFFREY GERBEN | | | | |
| ART UNIT 3736 | | | | |
| PAPER NUMBER | | | | |

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/924,265

Applicant(s)

HU ET AL.

Examiner

Jeffrey G. Hoekstra

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 1-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice of Amendment

1. In response to the amendment filed on 07/27/2006, amended claim(s) 42 is/are acknowledged. The current rejections of the claim(s) 42-54 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 42-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Livingstone et al (US 5,474,081) in view of John et al (US 2001/0049480 A1).

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5. For claims 42-45, Livingstone et al discloses a medical examination system, comprising: (a) means for presenting (5) a series of sensory stimuli for perception by a patient, said means for presenting comprising computer controlled visual stimulus generating device (5); (b) means for detecting electrical signals (9) representative of the patient's evoked potentials in response to said sensory stimuli, said means for detecting comprising a plurality of electrodes (9) connected to the scalp of a patient, said electrodes coupled with a recording and measuring device (column 3 lines 21-34); (c) means for amplifying (column 8 lines 31-40) said signals, said means for amplifying connected to said detecting means; (d) means connected to said amplifying means for converting (column 4 lines 20-35) said signals into digitized data, said means for converting comprising an analog to digital converter; (e) connected means for recording, measuring, analyzing, and comparing said data to predetermined values (column 2 lines 56-64 and column 3 line 21 – column 4 line 53).

6. Regarding claim 42, Livingstone et al discloses the claimed invention except for explicitly disclosing and/or teaching data rejection, e.g. rejecting data below a predetermined threshold as faulty unreliable data. John et al teaches a medical examination system wherein data is analyzed and compared in a detection module (50) to predetermined ranges and/or values to indicate if the data is reliable, faulty, and/or unreliable (paragraphs 169-207). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the medical examination system as taught by Livingstone et al, with the detection module as taught by John et al

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for the purpose of increasing the efficacy of medical diagnostic equipment via including programming to determine if measured data is accurate and/or precise.

7. For claims 46-54, Livingstone et al discloses a medical examination system wherein said means for comparing said data to said predetermined values comprises a computer program carried by said computer (column 6 lines 32 – 35), said computer program consisting of algorithms (column 8 lines 31-40) (a) for determining whether said electrical signals reach a maximum value of the output of said means for amplifying said electrical signals (column 8 lines 31-40), (b) for determining and recording if the Fourier component of said electrical signals at 60 Hz exceeds a threshold value via Fourier transform routine (17) (column 8 lines 31-40), (c) for determining and recording if said data abruptly jumps beyond predetermined ranges (column 8 lines 31-40), (d) for determining and recording if said electrical signals drift by using an averaging algorithm to smooth said electrical signals over time (column 8 lines 31-40), and (e) for determining and recording if the maximum value after segment integration exceeds a threshold value (column 8 lines 31-40). The examiner notes John et al also discloses a variety of signal generating and data processing algorithms.

Response to Arguments

8. Applicant's arguments with respect to claims 42-54 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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